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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 JOSEPH TIMBANG ANGELES, NOE
12 LASTIMOSA, on behalf of themselves and
13 on behalf of others similarly situated, and the
general public,

14 Plaintiffs,

15 v.

16 US AIRWAYS, INC., and DOES 1 through
17 50,

18 Defendants.
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No. C 12-05860 CRB

**ORDER GRANTING MOTION FOR
PARTIAL DISMISSAL OF
PLAINTIFFS' SECOND AMENDED
COMPLAINT, DENYING MOTION
TO RECONSIDER**

19 Now before the Court are two motions filed by Defendant US Airways, Inc. The first
20 motion seeks dismissal of the second claim in Plaintiffs' Second Amended Complaint. MTD
21 (dkt. 28); Second Am. Compl. (dkt. 30) ("SAC"). The second motion seeks reconsideration
22 of Section III.A.2 of this Court's Order of February 19, 2013. MTR (dkt. 29); Feb. 19 Order
23 (dkt. 23). Both motions are suitable for resolution on the papers. Civ. L.R. 7-1(b).

24 Defendant's motion for partial dismissal could be more clear, but the Court takes it to
25 invoke the law of the case doctrine. See MTD at 5 (arguing SAC's second claim is
26 "precluded" because it is based on a legal theory already dismissed by the Feb. 19 Order);
27 see also United States v. Phillips, 367 F.3d 846, 856 (9th Cir. 2004) ("The law of the case
28 doctrine precludes a court from reconsidering an issue that it has already resolved. Issues
that a district court determines during pretrial motions become law of the case."); United

1 States. v. Alexander, 106 F.3d 874, 876 (9th Cir. 1997) (Absent certain conditions not
 2 present here, “[f]ailure to apply the doctrine of the law of the case . . . constitutes an abuse of
 3 discretion.”). The Court determines that the SAC’s second claim is barred by the law of the
 4 case doctrine and therefore GRANTS Defendant’s motion to dismiss the SAC’s second
 5 claim.¹ The Court’s Feb. 19 Order held that Plaintiffs had conceded the validity of
 6 Defendant’s asserted defenses to wage claims based on an alleged failure to pay wages for
 7 missed or noncompliant meal periods. See Feb. 19 Order at 8-9. The SAC merely cloaks the
 8 same facts in a new legal theory, one amenable to the same defenses that have already
 9 prevailed. Thus, to win relief on the SAC’s second claim, Plaintiffs would have to relitigate
 10 an issue the Court has already resolved, i.e., the validity of Defendant’s asserted defenses to
 11 wage claims premised on unpaid meal periods. Doing so would offend “the salutary policy
 12 of finality that underlies the rule.” Moore v. James H. Matthews & Co., 682 F.2d 830, 834
 13 (9th Cir. 1982).

14 The same policy of finality leads the Court to DENY Defendant’s motion for
 15 reconsideration. Defendant argues that its First Motion to Dismiss (dkt. 6) (“FMTD”) never
 16 asserted the merits of a defense based on California Labor Code section 514. MTR at 3-4.
 17 Not so. Defendant clearly raised the merits of that defense in its First Motion to Dismiss,
 18 offering it as an “alternative basis for dismissal.” FMTD at 6 n.4. Contrary to Defendant’s
 19 suggestion that the claim has not been subjected to the adversary process, Plaintiffs
 20 responded to the argument, FMTD Opp’n (dkt. 15) at 10, and Defendant, in turn, replied,
 21 FMTD Reply (dkt. 21) at 3 n.1. Further, Defendant has not made the showing required by
 22 this Court’s local rule governing reconsideration. See Civil L.R. 7-9(b) (requiring specific
 23 showing that moving party “did not know” of materially different law than that presented to
 24 Court, despite “exercise of reasonable diligence”). On the contrary, Defendant represents
 25 that it decided not to present that law to the Court – which necessarily implies knowledge of
 26 the law. See MTR at 2.

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¹ The Court need not and does not reach Defendant’s preemption defense.

For the foregoing reasons, the Court GRANTS Defendant's motion for partial dismissal and DENIES Defendant's motion for reconsideration. The Court VACATES the hearing on these matters set for June 28, 2013.

IT IS SO ORDERED.

Dated: June 26, 2013



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE